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February 3, 2018

**BY ECF:**

Honorable Valerie E. Caproni  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: United States v. Percoco, et al., S2 16 Cr. 776 (VEC)**

Dear Judge Caproni:

We respectfully write on behalf of Peter Galbraith Kelly, Jr., in response to the Court's February 2, 2018 Order inviting further letter briefing on whether the Government should be permitted to elicit testimony relating to the health of Doug Egan. (Doc. No. 463).

We understand from 3500 material that during an interview yesterday with Gary Lambert, Mr. Lambert—who was President of CPV and worked very closely with Mr. Egan—told the Government that he did not notice any changes in Mr. Egan's health during the summer of 2014 and did not notice any behavioral changes until the spring/summer of 2015.

Following discussion between the parties, the Government has informed us that it agrees not to elicit any testimony regarding Mr. Egan's health from any witness. Instead, the parties will stipulate that Mr. Egan resigned as CEO of CPV in January 2016 and that he is unavailable to testify as a witness at trial because of an illness, thus mooted the issue before the Court.

Respectfully submitted,

LANKLER SIFFERT & WOHL LLP

By: /s/ Daniel M. Gitner

Daniel M. Gitner  
Jun Xiang

CC: All Counsel (Via ECF)